

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,224

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare closing both her ANFC and Food Stamp grants due to excess income. The issue is whether the father of the petitioner's infant should have his gross income included in the calculation of the petitioner's eligibility for benefits.

FINDINGS OF FACT

1. Until recently, the petitioner, as an expectant single mother with no other income, received an ANFC grant of \$340.00 per month and Food Stamp benefits of \$115.00 per month. During that time she lived with and continues to live with her child's father. Before the birth of the child, her child's father's income was not attributed to her in figuring her eligibility for benefits.

2. Following the birth of the petitioner's child in October of 1994, the Department recalculated the petitioner's benefits using the income of the child's father and concluded that she was no longer eligible for ANFC and Food Stamps. On November 4, 1994, she was mailed a letter informing her that her ANFC benefits would be terminated on November 16, and that her Food Stamp benefits would stop on December 1, because her income was in excess of that allowed by Departmental standards.

For ANFC, the Department used a gross earned income figure of \$1,395.69 per month earned by the baby's father and adjusted it down to \$934.27 in countable monthly income using a standardized deduction of \$461.42. That figure was compared with the amount the Department would pay out to the family if they were eligible, \$616.89, based on 56.7% of their actual needs which were determined to be \$1,088.00. (That figure was obtained by adding the basic need for a family of three found in the regulations--\$738.00--to their shelter expense of \$350.00 per month.) As their countable income of \$934.27 exceeded the \$616.89 figure they would be paid under ANFC, the petitioner was determined to be ineligible for benefits.

For Food Stamps, the Department used the actual gross earned income and ANFC benefits received by

all members of the petitioner's household for that month which was \$1,599.69 (his income of \$1,395.69 and \$204.00 received that month in ANFC benefits, and determined that the amount was over the maximum gross income for a household with three people which is \$1,335.00.

3. The petitioner does not dispute that the Department used correct income and shelter figures provided by her in its calculations but she disagrees with the Department's decision because she feels only the baby's father's net available income should be used. After taxes, social security, credit union deductions and other deductions made by his employer for uniforms and consumer debts, he takes home only about \$700.00 per month (\$325.00 every two weeks).

ORDER

The decision of the Department is affirmed.

REASONS

The regulations regarding computation of income in the ANFC program require that the gross earned income be used subject to deductions only for "applicable business expenses (self-employment only), the standard employment expense deduction, any applicable earned income disregard and any allowable dependent care deduction." W.A.M. 2253.1. The standard employment expense deduction is used "in lieu of actual expenses for taxes, insurance, retirement, union dues, fees, transportation, uniforms, tools, and other reasonable employment expenses." W.A.M. 2253.3 The actual amount of the standard employment expense deduction, and the earned income disregard used depends on whether the recipient is in Group 1, 2 or 3 of the welfare restructuring project. The Department's witness in this case indicated that the deduction was \$90.00 for work expenses and \$30.00 and one-third of the remainder as an earned income disregard, figures used for Group 1 under W.A.M. 2253.1 and 2254. However, the math suggests that the petitioner was more likely placed in Group 2 or 3 in which he receives no work expense deduction but a \$150.00 and one-fourth of the remainder disregard. Under either scenario, the petitioner's income would exceed the \$616.89 maximum for a five person family.

The Department correctly used the petitioner's gross income as a starting point for the deductions. Net income figures are not used under the above regulations, no matter how compelling the situation, although deductions are allowed for certain specified items. See e.g. W.A.M. 2253.4 (Child care expense deduction.) The kinds of deductions the petitioner seeks are already covered by the employment expense deduction.

The Food Stamp regulations require the consideration of all gross earned and unearned income without regard to deductions in determining whether applicants meet threshold eligibility requirements for the Food Stamp program. F.S.M. 273.9(a) and 273.9(b)(1) and (2). The household's total income of \$1,599.69 exceeds the \$1,335.00 maximum for three persons. However, without the ANFC income, the household is close to the threshold level and is encouraged to reapply if any change in the amount of income occurs.

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